

REMARKS

CLAIM LISTING			
Claim	Status	Claim	Status
1 – 2	Currently Amended	21 - 22	Currently Amended
3 – 4	Canceled	23 - 25	Canceled
5 – 6	Currently Amended	26	Currently Amended
7 - 8	Canceled	27	Original
9 - 10	Currently Amended	28	Withdrawn, Currently Amended
11 – 18	Canceled	29 – 38	Canceled
19	Currently Amended	39	New
20	Canceled		

Claims 1, 2, 5-6, 9-10, 15-19, 21, 22, and 26-28 are pending in the present Application, with claim 28 withdrawn. Claims 1-2, 5-6, 9-10, 19, 21-22, and 26 are Currently Amended and Claim 28 Withdrawn, Currently Amended. Claims 15-18 have been canceled by this amendment, Claims 3-4, 7-8, 11-14, 23-25, and 29-38 were canceled by previous amendment, Claim 21 was Previously Presented, Claim 27 remains in its original form, and Claim 39 is New, leaving Claims 1, 2, 5, 6, 9, 10, 19, 21, 22, 26-27, and 39 for consideration upon entry of the present amendment.

Claims are canceled without prejudice to their assertion in continuation applications.

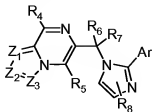
Amendments to the Specification

The Specification has been amended to include a claim for priority under 35 U.S.C. §365(a) and to correct certain typographical errors.

Additional amendments to the specification have been made for clarity and consistency.

Amendments to the Claims

Claim 1 has been amended to recite a compound of the Formula:



or a pharmaceutically acceptable salt thereof, wherein Z₁ and Z₂ are N and Z₃ is CR₃, supported at least by the Specification on page 6, line 30.

Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim 1 has been amended to recite, “R₄ is hydrogen or C₁-C₂alkyl,” to recite, “R₆ and R₇ are each independently hydrogen or C₁-C₂alkyl,” and to recite “R₈ is 0, 1, or 2 C₁-C₂alkyl.” Support for these definitions of R₄ and R₈ is found in the specification as filed. For example, support is found in the exemplified compounds in which R₄ and R₈ are typically hydrogen and in Claim 1, as filed, which includes C₁-C₂alkyl within the possible R₄ and R₈ definitions.

Claim 1 has been amended to recite “(C₆-C₁₀aryl)C₀-C₂alkyl” rather than “(aryl)C₀-C₂alkyl.” Support for this change is found in the specification at least a page 11, line 27 which indicates a C₆-C₁₀aryl is a preferred aryl group. A C₆-C₁₀aryl would be a phenyl or naphthyl group. Claim 1 has also been amended to recite “(5- to 7-membered monocyclic heteroaryl)C₀-C₂alkyl” rather than “(heteroaryl)C₀-C₂alkyl.” Support for this change is found in the specification at least at page 12, lines 10-12 which clearly indicates that a single 5- to 7-membered monocyclic heteroaromatic ring is with the definition of “heteroaryl.”

The definition of R₈ in Claim 2 has been amended so that Claim 2 properly depends from Claim 1.

Claim 5 has been amended to recite a compound or pharmaceutically acceptable salt thereof according to claim 1, wherein Ar represents 2-pyridyl, which is substituted with from 0 to 2 substituents independently selected from chloro, fluoro, hydroxy, C₁-C₄alkyl, C₁-C₄alkoxy, C₁-C₂haloalkyl, and C₁-C₂haloalkoxy. Support for this definition of Ar is found in the specification, for example at page 15, lines 20-23.

Claim 9 has been amended to recite a 4-to 6-membered heterocycloalkyl group rather than a 4- to 7-membered heterocycloalkyl group in order to properly depend from Claim 1.

Claim 10 has been amended to remove the word “independently” which was extraneous, and to delete “hydrogen”.

Claim 22 has been amended to remove non-elected compounds.

Claims 1, 2, 5-6, 9-10, 19, 21-22, 26, and 28 have been amended to change “form” to “salt.” Support for this amendment is found in the specification as filed, at least at page 6, lines 10-12 which indicates the pharmaceutically acceptable forms include salts.

New Claims

New Claim 39 is supported at least by Claim 12 as originally filed and the Specification on page 17, lines 2-8.

Dependent Claims 2, 5, 6, 9, and 22 have been amended to exclude matter that does not have antecedent basis in amended Claim 1, and in certain instances to correct minor typographical errors.

Claim Objections

The Examiner objects to Claims 1, 2, 5, 6, 9, 10, 15-19, 21, 22, 26, and 27 as containing non-elected subject matter. Claim 1 has been amended to exclude non-elected subject matter. Particularly Claim 1 has been amended so that Z₁ and Z₂ are nitrogen and Z₃ is CR₃.

Reconsideration and withdrawal of the objections are respectfully requested.

Claim Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 1, 5, 6, 9, 10, 15-19, 21, 22, 26, and 27 stand rejected under 35 U.S.C. §112, first paragraph. Applicants respectfully traverse this rejection.

The Examiner states that the Specification, while being enabling for compounds, compositions, or the pharmaceutically acceptable salts of Claim 1 where R₄, R₅, R₆, R₇ and R₈ are Hydrogen; R₅ is alkyl; and Ar is an unsubstituted or monosubstituted 2-pyridyl ring, is not

enabling for any other compounds not previously described, or any esters, hydrates, clathrates, or prodrugs of the compounds or compositions. The claims as amended do not recite esters, hydrates, clathrates, or prodrugs of the compounds or compositions. Applicants appreciate the Examiner's indication that the claims are enabled for R₄, R₅, R₆, R₇, and R₈ being hydrogen. Accordingly applicants have amended Claim 1 and the claims dependent therefrom to recite only hydrogen and C₁-C₂alkyl. One of ordinary skill would expect compounds differing only by one or two methyl or methylene groups to have quite similar properties in the absence of structure activity data showing this not to be the case for the particular compounds. Thus Applicants understand that compounds in which any of R₄, R₅, R₆, R₇, and R₈ are methyl or ethyl instead of hydrogen are also enabled.

The C.C.P.A. has stated that the specification need not contain a working example of every embodiment of the invention "if the invention is otherwise disclosed in such a manner that one skilled in the art would be able to practice it." *In re Borkowski*, 422 F.2d 904 (C.C.P.A. 1970). Further, regarding generic chemical arts, the court has stated "it is manifestly impractical for an applicant who discloses a generic invention to give an example of every such species. It is sufficient if the disclosure teaches those skilled in the art what the invention is and how to practice it." *In re Kamal*, 398 F.2d 867 (C.C.P.A. 1968), quoting *In re Grimme*, 274 F.2d 949 (C.C.P.A. 1960).

The instant specification includes nine working examples that describe the synthesis of exemplary compounds. Accordingly, the Applicants respectfully assert that the specification provides sufficient disclosure for one skilled in the art to practice the invention. Because the instant specification provides disclosure sufficient for one skilled in the art to practice the invention, in light of *Kamal*, the applicant is not required to show a working example for every claimed species. Accordingly, because amended Claim 1, and dependent Claims 2, 5, 6, 9, and 22, recite species for R₄, R₆, R₇, R₈, and Ar that are supported by the specification Applicants believe the claims as now pending overcome the rejection under 35 U.S.C. §112, first paragraph. Reconsideration and withdrawal of the rejections made under 35 U.S.C. §112, first paragraph are respectfully requested.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1, 2, 5, 6, 9, 10, 15-19, 21, 22, 26, and 27 stand rejected under 35 U.S.C. §112, second paragraph. In particular, the Examiner states that “aryl”, “heteroaryl”, “heterocycle” and “heterocyclic” are not clear. “Heterocycle” is not recited in the present claims. The scope of “heteroaryl” and “aryl” is now clearly indicated in claim 1.

Therefore the Applicants respectfully traverse this rejection based on the above amendments to Claims 1 and 9. Reconsideration and withdrawal of the rejections made under 35 U.S.C. §112, first and second paragraphs are respectfully requested.

It is believed that the foregoing amendments and remarks fully comply with the Office Action. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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